

Given Appellants' representation that their failure to perfect their appeal was an affirmative choice and their belief that this docket was "administratively closed" in light of their decision, this appeal is dismissed for failure to perfect. See also *In re Wynn*, No. 17-CV-6547, 2018 WL 10038798, at \*1 (W.D.N.Y. Feb. 15, 2018) ("It is well settled that federal courts are vested with the authority to dismiss a bankruptcy appellant's claims for failure to prosecute, *sua sponte*."); *In re Bristol*, No. 09-CV-1683, 2010 WL 1223053, at \*2 (E.D.N.Y. Mar. 24, 2010) (Bianco, J.).

The Clerk of the Court is respectfully directed to close this case.

SO ORDERED.



Philip M. Halpern  
United States District Judge

Dated: White Plains, New York  
May 25 2021

W FIRM

REPLY TO  
OD CLIFFS  
k@kimmlaw.com

295 Madison Avenue, 12th Floor  
New York, New York 10017  
Tel 917-477-8500  
Fax 201-569-2881

May 24, 2021

Re: In re 461 7th Ave Market, Inc., Appeal No. 7:20-cv-07983-PMH

Dear Judge Halpern:

Appellant-Debtor writes to clarify appeal docket number 20-cv-7983.

On August 27, 2020, the Bankruptcy Court granted the Chapter 7 Trustee's motion to abandon the store lease, along with related relief, in response to the Trustee's motion filed after being appointed by Order of July 16, 2020, after another Order of July 16, 2020, converted the Chapter 11 case to Chapter 7. These are on appeal under docket 20-cv-6216.

After filing a notice of appeal from the July 16 orders, Appellant filed a notice of appeal from the August 27, 2020, Order to protect the record. Because the August 27 Order granted the trustee's motion, and Appellant-Debtor was not directly involved, we subsequently concluded that Debtor did not have standing to challenge the latter Order, and the Trustee's abandonment resulted in the lease rights being returned to the Debtor. Indeed, once the July 16 Orders were reversed, the August 27 Order would be rendered moot. For this reason, we did not perfect the appeal under docket number 7983 and left the docket administratively closed.

Thank you for your consideration.

Respectfully,

/s/ Michael Kimm

Michael S. Kimm

cc: All counsel by ECF